

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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U.S. DISTRICT COURT E.D.N.Y.

★ FEB 23 2012 ★

BROOKLYN OFFICE

MEMORANDUM AND ORDER
09 CV 1605 (ILG)

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THOMAS GESUALDI and FRANK FINKEL,
as Trustees of Local 282 International
Brotherhood of Teamsters Welfare, Pension,
Annuity, Job Training and Vacation Sick
Leave Trust Funds,

Plaintiffs,

-against-

K&W LOGISTICS LLC, d/b/a K&W
LOGISTICS LLC, d/b/a K & W LOGISTICS
LLC,

Defendant.

-----X
GLASSER, United States District Judge:

The plaintiffs have moved this Court for an Order that would find the defendant and Ann Assing in civil contempt of an Order issued by Magistrate Judge Mann on December 2, 2011, Docket #11, familiarity with which is assumed.

A hearing on the motion was held on February 23, 2012. The plaintiff was present, made an oral presentation in support of the motion. The defendant and Ann Assing were served with the Notice of Motion and supporting documents, but neither appeared. At the conclusion of the hearing and based on the Declaration of Michael Adler in support of the motion, the Court finds that: (1) the Order of Magistrate Judge Mann was clear and unambiguous and duly issued; (2) the disobedience of that Order was clearly and convincingly proved. See Ex. G, H and K annexed to the Adler Declaration; and (3) there isn't the slightest suggestion that any attempt to comply with the Court's Order was made.

Exhibits H, L and M annexed to Adler's Declaration compel the conclusion that Ann Assing, as the President of the defendant, is responsible for the defendant corporation's affairs and may properly be held for the disobedience of the Court's Order.

Based on the foregoing, a finding of civil contempt is made against the defendant and Ann Assing. The sanction imposed for that finding is a fine of \$1,000 levied against them jointly and severally for each day of disobedience of the Court's Order. In addition, an examination of the time sheets of the firm of Cohen, Weiss and Simon, annexed as Exhibit N to the Adler Declaration, warrants the assessment of attorney's fees and costs in the sum of \$3,959.02 against the defendant and Ann Assing, jointly and severally, as being eminently reasonable.

This Order is stayed until 5:00 p.m. on February 27, 2012.

SO ORDERED.

Dated: Brooklyn, New York
February 23, 2012

S/ILG

I. Leo Glasser